



OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable L. A. Woods
State Superintendent of Public Instruction
Austin, Texas

Dear Sir;

Attention; Mr. T. M. Trimble

Opinion No. 0-2623

Re: Proper procedure to be followed by tax authorities of Meridian Independent School District to collect the tax rate of \$1.00 voted upon consolidation of said school district with Midway District No. 63, Bosque County, a common school district.

By your letter of August 10, 1940, you submit for the opinion of this department, the following question:

"At the request of Mr. Oscar L. Rorie, Superintendent of the Meridian Public Schools, Meridian, Texas, I am submitting the following question for your consideration and opinion:

"Midway District #63, Bosque County was consolidated by election with the Meridian Independent School District on the 4th day of June, 1940. Following the election for consolidation, an election was held on the 6th day of August to equalize the tax rate and to assume the bonded indebtedness in the newly created Meridian Independent School District. The election carried for the equalization of the tax rate and the assuming of the bonded indebtedness.

"The Midway Common School District #63, Bosque County had been assessed by the County Assessor-Collector at the rate of fifty cents (50¢) before the consolidation and the equalization of the tax rate. Since the consolidation, the Meridian School

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Board has by proper resolution released the County Assessor-Collector from any further responsibility in the matter of assessing and collecting taxes for the once Midway District, which is now a part of the Meridian Independent School District and therefore under the jurisdiction of the Meridian School Assessor-Collector.

"We wish to know what procedure to follow to collect the new rate of one dollar (\$1.00) now imposed upon the property of the former Midway District for this year?"

It is assumed that the common school district and independent school district involved in this inquiry, were consolidated under the authority of Article 2806, Vernon's Annotated Revised Civil Statutes of Texas, and that an election or elections became necessary under Article 2807, Vernon's Annotated Revised Civil Statutes of Texas, for the assumption of the outstanding bonds of the component districts and the voting of a new tax rate within the limits and in the mode and manner required by Articles 2784 and 2785, Vernon's Annotated Revised Civil Statutes of Texas.

It does not appear from your letter that any question is made as to the regularity or legality of the proceedings taken under the above cited statutes, nor is any difficulty, present or anticipated, in the collection of the newly voted tax of this consolidated district, presented by your letter. As we interpret the inquiry, it merely appears that the writer of the letter desires to be advised, generally, of the proper procedure to be followed in the collection of the taxes in question. Strictly speaking, this calls for no opinion of this department upon a question of statutory construction, and we need only point to the statutes in such cases made and provided.

Article 2784, Vernon's Annotated Revised Civil Statutes, empowers school trustees for independent school districts to levy and cause to be collected the annual taxes voted upon the district under the statutory provisions hereinabove adverted to, and fixes the purposes and amount for which such taxes may be levied. In this connection, Article 2790, Vernon's Annotated Revised Civil Statutes of Texas, provides, in part, as follows:

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"If an independent school district votes a maintenance tax, the board of trustees shall thereafter annually levy and cause to be assessed and collected upon the taxable property in the limits of the district for the maintenance of the public free schools of the said district such ad valorem tax as the qualified voters of such district authorized at the election held for that purpose; or if no specific rate has been voted, said board shall levy such a rate each year within that limit as it may deem judicious.
 . . ."

If the Meridian Independent School District has elected to assess and collect its own taxes, and, for this purpose, has its own assessor and collector of taxes, as indirectly appears to be the case from your letter, then the terms and provisions of Article 2791, Vernon's Annotated Revised Civil Statutes of Texas, would govern:

"The district tax assessor and collector shall have the same power and shall perform the same duties with reference to the assessment and collection of taxes for free school purposes that are conferred by law upon the city marshal of incorporated towns or villages, and he shall receive such compensation for his services as the board of trustees may allow, except in cities and towns provided for, not to exceed four per cent of the whole amount of taxes received by him. He shall give bond in double the estimated amount of taxes coming annually into his hands, payable to and be approved by the president of the board, conditioned for the faithful discharge of his duties, and that he will pay over to the treasurer of the board all funds coming into his hands by virtue of his office as such assessor and collector; provided that in the enforced collection of taxes the board of trustees shall perform the duties which devolve in such cases upon the city council of an incorporated city or town, the president of the board of trustees shall perform the duties which devolve in such cases upon the mayor of an incorporated city or town, and the county attorney of the county in which the independent school district is located shall perform

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the duties which in such cases devolve upon the city attorney of an incorporated city or town under the provisions of law applicable thereto. It shall be within the discretion of the board of trustees of any independent school district to name an assessor of taxes who shall assess the taxable property within the limits of the independent school district within the time and in the manner provided by existing laws, in so far as they are applicable, and when said assessment has been equalized by a board of equalization appointed by the board of trustees for that purpose, shall prepare the tax rolls of said district and shall duly sign and certify same to the county tax collector as provided for in the succeeding article. The said assessor of taxes shall receive a fee of two per cent of the whole amount of taxes assessed by him as shown by the completed certified tax rolls."

If, on the other hand, the Meridian Independent School District desires the services of the county tax officials in the assessment and collection of its taxes, the following provisions of Article 2792, Vernon's Annotated Revised Civil Statutes of Texas, will apply:

"When a majority of the Board of Trustees of an Independent District prefer to have the taxes of their District assessed and collected by the County Assessor and Collector, or collected only by the County Tax Collector, same shall be assessed and collected by said County Officers and turned over to the Treasurer of the Independent School District for which such taxes have been collected. The property of such Districts having their taxes assessed and collected by the County Assessor and Collector may be assessed at a greater value than that assessed for County and State purposes, and in such cases the County Tax Assessor and Collector shall assess the taxes for said District on separate assessment blanks furnished by said District and shall prepare the rolls for said District in accordance with the assessment values which have been equalized by a Board of Equalization appointed by the Board of Trustees for that purpose. If said taxes are assessed by a Special Assessor of the Independent

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District and are collected only by the County Tax Collector, the County Tax Collector in such cases shall accept the rolls prepared by the Special Assessor and approved by the Board of Trustees as provided in the preceding Article. When the County Assessor and Collector is required to assess and collect the taxes of Independent School Districts he shall respectively receive one per cent (1%) for assessing, and one per cent (1%) for collecting same."

We feel sure that the school authorities of Meridian Independent School District are entirely familiar with the above statutes, and we can only advise, in the absence of a more specific question, that they may proceed to levy, assess and collect taxes of the newly created district, under the same procedure followed by them in levying, assessing and collecting taxes for said district prior to its consolidation with Midway District No. 63, Bosque County. Said consolidation of date June 4, 1940, does not in any way alter the procedure outlined by the above statutes for the levy, assessment and collection of taxes for independent school districts, or defeat the right of Meridian Independent School District to levy, assess and collect taxes in the amount voted, from persons and property of the old common school district for the current year.

Trusting the foregoing fully answers the question you intended to present, we are

Yours very truly

APPROVED AUG 22, 1940

ATTORNEY GENERAL OF TEXAS

[Signature]
FIRST ASSISTANT
ATTORNEY GENERAL

BY

[Signature]
Pat M. Neff, Jr.
Assistant

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